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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,918	03/31/2004	Robert Michael Kalthoff	LDT01-GN001	5039
30074	7590	08/12/2005	EXAMINER	
TAFT, STETTINIUS & HOLLISTER LLP SUITE 1800 425 WALNUT STREET CINCINNATI, OH 45202-3957			TOMASZEWSKI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/813,918	KALTHOFF ET AL.	
	Examiner	Art Unit	
	Mike Tomaszewski	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 1-22, 49-71, 76-80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-48 and 72-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9 May 2005</u> .                                                          | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Notice To Applicant***

1. This communication is in response to the application filed on 31 March 2004. Claims 23-48 and 72-75 are pending. The IDS statements filed on 9 May 2005 and 24 February 2005 have been entered and considered.

### ***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-22, drawn to accessing transplant donor data from a remote location, classified in class 705, subclass 2.
  - II. Claims 23-48 and claims 72-75, drawn to gathering and inputting transplant donor data to a database, classified in class 707, subclass 104.1.
  - III. Claims 49-71, drawn to organizing and making available transplant donor data, classified in class 707, subclass 9.

- IV. Claims 76-80, drawn to facilitating the dissemination of information pertaining to transplantable organs and tissue from a donor hospital to a transplant center, classified in class 709, subclass 201.

2. The Inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility as a computer implemented system or method particularly adapted for a health care management or delivery organization. Invention II has separate utility as specific applications of database schema and data structures to commercial, scientific, and medical fields. Invention III has separate utility directed to determination and granting of access to data and files by direct means, such as by the file or database creator or database manager, or by indirect means, such as by inheritance, such as by group/user access profiles. Lastly, invention IV has separate utility in areas wherein the separate computers or digital data processing systems performing different tasks share data to accomplish an overall goal.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or

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because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Ryan L. Willis (Reg. No. 48,787) on 20 July 2005, an election was made without traverse to prosecute the invention of II, claims 23-48 and 72-75. Applicant must make affirmation of this election in replying to this Office action. Claims 1-22, 49-71 and 76-80 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 23-25, 27-37, 43-48, and 72-74 are rejected under 35 U.S.C. 102(e) as being anticipated by Davis (US2004/0068420; hereinafter Davis).

(A) As per claim 23, Davis discloses a method of gathering and inputting transplant donor data to a database, the method comprising the steps of:

- (i) compiling a transplant donor record specific to a transplant donor (Davis: pg. 1, par. [0013]);
- (ii) accessing a remote database capable of storing a plurality of transplant donor records (Davis: Fig. 1-4);
- (iii) uploading the transplant donor record to the remote database (Davis: Fig. 1-4; pg. 2, par. [0018]).

(B) As per claim 24, Davis discloses the method of claim 23, wherein the compiling step includes the step of inputting transplant donor data into at least one of a tangible expression and a digital expression (Davis: pg. 3, par. [0025] and [0031]).

(C) As per claim 25, Davis discloses the method of claim 24, wherein the transplant donor data is input into a series of relevant fields that include at least one of transplant donor blood type (Davis: Fig. 3).

The Examiner has noted insofar as claim 25 recites "at least one of transplant donor blood type, time of death of the transplant donor, cause of death of the transplant

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donor, transplant donor lab results, the transplant donor's organs available for transplant, age of the transplant donor, and dimensions of the transplant donor's organs available for transplant," transplant donor blood type is recited.

(D) As per claim 27, Davis discloses the method of claim 24, wherein the compiling step includes transforming the tangible expression of the transplant donor data into the digital expression of the transplant donor data (Davis: pg. 3, par. [0025] and [0031]). Examiner notes also that the Davis system teaches that tangible data (e.g., donor form) may be faxed and then "digitized" into the database via the Davis tissue donation coordination system (TDCS) (Davis: pg. 2, par. [0019]; Fig. 2).

(E) As per claim 28, Davis discloses the method of claim 25, wherein the step of inputting transplant donor data into a series of fields includes inputting the digital expression of the transplant donor data utilizing at least one of a wireless data input device and a wired data input device (Davis: pg. 2, par. [0018]).

The Examiner has noted insofar as claim 28 recites "at least one of a wireless data input device and a wired data input device," a wireless input device is recited.

(F) As per claim 29, Davis discloses the method of claim 28, wherein:

- (i) the step of inputting the transplant donor data into a series of fields includes the step of providing an electronic donor data form (Davis: Fig. 3);
  - (ii) the series of fields include at least one of transplant donor name, transplant donor address, transplant donor next of kin name, and transplant donor next of kin address; and the electronic donor forms reside in memory on at least one of the wireless data input device and the wired data input device (Davis: Fig. 3 and pg. 2, par. [0018]).
- (G) As per claim 30, Davis discloses the method of claim 23, wherein the compiling step includes providing a computer that may access an electronic form adapted to include transplant donor data (Davis: Fig. 2-3).
- (H) As per claim 31, Davis discloses the method of claim 23, wherein:
- (i) the step of uploading includes uploading pure data in a first set of predetermined fields comprising the transplant donor record (Davis: Fig. 2-3); and
  - (ii) the pure data of the transplant donor record is adapted to be extracted from the first set of predetermined fields and assimilated with a second set of predetermined fields associated with the remote database (Davis: Fig. 2-3; pg. 1, par. [0007]). Examiner considers the actions of extraction and



assimilation to be encompassed by Davis' "stand format" Structured Query Language (SQL) logic.

- (I) As per claim 32, Davis discloses the method of claim 23, wherein:
  - (i) the accessing step includes the step of viewing at least one uploaded transplant donor record (Davis: pg. 2, par. [0014]); and
  - (ii) the viewing step includes viewing the transplant donor data from the remote database (Davis: Fig. 2-3; pg. 2, par. [0018]).
  
- (J) As per claim 33, Davis discloses the method of claim 23, wherein the accessing step includes connecting to the remote database utilizing the Internet (Davis: pg. 2, par. [0018]).
  
- (K) As per claim 34, Davis discloses the method of claim 23, further comprising the step of signing onto the remote database (Davis: pg. 2, par. [0018]).
  
- (L) As per claim 35, Davis discloses the method of claim 34, wherein the step of signing onto the remote database includes the step of activating software installed on a digital device to connect to the remote database (Davis: pg. 3, par. [0023] and [0024]; pg. 4, par. [0034]).

The Examiner considers method claim 35 to represent typical client/server architecture. That is, the client (e.g., software within the digital device) is the software in the client/server architecture that may be activated to request files or services. The computer that provides services, on the other hand, is called the server (e.g., remote database).

(M) As per claim 36, Davis discloses the method of claim 35, wherein the digital device includes at least one of a wireless personal digital assistant (Davis: pg. 2, par. [0018]).

The Examiner has noted insofar as claim 36 recites "at least one of a wireless personal digital assistant, a wireless computer, a wired computer, a wireless telephone and a wired telephone," a wireless personal digital assistant is recited.

(N) As per claim 37, Davis discloses the method of claim 25, wherein the step of activating software installed on the digital device automatically attempts to connect to the remote database and download from the remote database pre-registered sign-on data particular to at least one of a procurement organization representative and the digital device (Davis: pg. 2, par. [0034]; Fig. 2).

(O) As per claim 43, Davis discloses the method of claim 23, wherein the compiling step includes the step of inputting transplant donor data in to a first set of predetermined fields comprising the transplant donor record (Davis: pg. 1, par. [0013]; Fig. 3).

(P) As per claim 44, Davis discloses the method of claim 43, wherein the uploading step includes the step of facsimile transmitting the transplant donor record (Davis: pg. 2, par. [0019]; Fig. 2).

(Q) As per claim 45, Davis discloses a method of gathering and displaying transplant donor data, the method comprising the steps of:

- (i) compiling a transplant donor record specific to a transplant donor (Davis: pg. 1, par. [0013]);
- (ii) transmitting an electronic version of the transplant donor record (Davis: pg. 2, par. [0019]; Fig. 2); and
- (iii) displaying the transplant donor record using the electronic version of the transplant donor record (Davis: pg. 1, par. [0013]; Fig. 3).

(R) As per claim 46, Davis discloses the method of claim 45, wherein the transmitting step includes at least one of facsimile transmitting the transplant donor record via telephone communication and electronic data transmitting the transplant donor record via computer network communication (Davis: pg. 2, par. [0018]; Fig. 2).

The Examiner has noted insofar as claim 46 recites "at least one of facsimile transmitting the transplant donor record via telephone communication and electronic data transmitting the transplant donor record via computer network communication,"

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facsimile transmitting the transplant donor record via telephone communication is recited.

(S) As per claim 47, Davis discloses the method of claim 45, wherein the compiling step includes compiling the electronic version of the transplant donor record (Davis: pg. 1, par. [0013]).

(T) As per claim 48, Davis discloses the method of claim 45, wherein the displaying step includes displaying the transplant donor record on a tangible medium (Davis: pg. 3, par. [0025]). The Examiner considers printed reports to read on "tangible medium."

(U) As per claim 72, Davis discloses a method of gathering and inputting transplant donor data to a database in the form of a pure data system, the method comprising the steps of:

- (i) providing a series of data input options into which transplant donor data may be input to create an transplant donor record (Davis: pg. 1, par. [0013]; Fig. 2-4), the series of data input options including at least one of edit transplant donor data, update transplant donor data, delete transplant donor data, and submit transplant donor data (Davis: Fig.4);  
The Examiner has noted insofar as claim 72(i) recites "at least one of edit transplant donor data, update transplant donor data, delete transplant

donor data, and submit transplant donor data," edit transplant donor data is recited.

- (ii) inputting transplant donor data into at least one of the series of data input options to create the transplant donor record (Davis: pg. 1, par. [0013]; Fig. 2-4);
- (iii) transmitting the transplant donor record to an transplant donor database (Davis: pg. 2, par. [0018] and Fig. 2); and
- (iv) availing the transplant donor record via the Internet (Davis: pg. 2, par. [0018] and Fig. 2).

(V) As per claim 73, Davis discloses the method of claim 72, wherein the inputting step includes providing a wireless storage device capable of storing the transplant donor data within the data input options to create the transplant donor record (Davis: pg. 2, par. [0018] and Fig. 2).

(W) As per claim 74, Davis discloses the method of claim 73, wherein the wireless storage device includes at least one of a wireless computer, a wireless personal digital assistant, and a wireless phone (Davis: pg. 2, par. [0018] and Fig. 2).

The Examiner has noted insofar as claim 74 recites "at least one of a wireless computer, a wireless personal digital assistant, and a wireless phone," a wireless personal digital assistant is recited.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 26, 40 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis as applied to claims 24 and 37 respectively above, and further in view of Fletcher-Haynes et al. (US 2003/0154108; hereinafter Fletcher-Haynes).

(A) As per claim 26, Davis fails to expressly disclose the method of claim 24, wherein the compiling step includes the step of inputting transplant donor history data that includes at least one of transplant donor allergies. Nevertheless, this feature is old and well known in the art, as evidenced by Fletcher-Haynes.

In particular, Fletcher-Haynes discloses the method of claim 24, wherein the compiling step includes the step of inputting transplant donor history data that includes at least one of transplant donor allergies (Fletcher-Haynes: pg. 14, par. [0100]; Fig. 2F). Note also Davis teaches the use of a field for "other information" (Davis: Fig. 3).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Fletcher-Haynes within the Davis system with the motivation of donor process optimization (Fletcher-Haynes: pg. 2, par. [0015]).

The Examiner has noted insofar as claim 26 recites "at least one of transplant donor illnesses or disorders, transplant donor medical treatments, transplant donor allergies, transplant donor exposure to toxic substances, transplant donor smoking habits, transplant donor drinking habits, transplant donor medications, transplant donor risky sexual behavior, transplant donor drug usage, and transplant donor blood products received," transplant donor allergies is recited.

(B) As per claim 40, Davis fails to expressly disclose the method of claim 37, wherein the pre-registered sign-on data particular to at least one of the procurement organization representative must match unique sign-on data specific to at least one of the procurement organization representative. Nevertheless, this feature is old and well known in the art, as evidenced by Fletcher-Haynes.

In particular, Fletcher-Haynes discloses the method of claim 37, wherein the pre-registered sign-on data particular to at least one of the procurement organization representative must match unique sign-on data specific to at least one of the procurement organization representative (Fletcher-Haynes: pg. 13, par. [0093]).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Fletcher-Haynes within the Davis system with the motivation of donor process optimization (Fletcher-Haynes: pg. 2, par. [0015]).

The Examiner has noted insofar as claim 40 recites "at least one of the procurement organization representative and the digital device must match unique sign-on data specific to at least one of the procurement organization representative and the digital device," the procurement organization representative is recited.

(C) As per claim 75, Davis discloses a method of gathering transplant donor data, the method comprising the steps of:

- (i) the computer includes software to facilitate the uploading of the transplant donor data to a remote database over a network connection (Davis: pg. 3, par. [0023]), the remote database including a remote digital processing device, such that the remote database is accessible by an intended third party (Davis: pg. 2, par. [0018] and Fig. 2).

Davis, however, fails to expressly disclose the step of:

- (ii) utilizing a computer operatively coupled to a scanner, where the computer has at least one electronic transplant donor form adapted to be manipulatable to input transplant donor data using at least one of keystrokes, digital handwriting, and scanned images.



Nevertheless, this feature is old and well known in the art, as evidenced by Fletcher-Haynes.

In particular, Fletcher-Haynes discloses the step of:

- (i) utilizing a computer operatively coupled to a scanner (Fletcher-Haynes: pg. 12, par. [0092]), where the computer has at least one electronic transplant donor form adapted to be manipulatable to input transplant donor data using at least one of keystrokes, digital handwriting, and scanned images (Fletcher-Haynes: Fig. 2B; The Examiner has noted insofar as claim 75 recites "at least one of keystrokes, digital handwriting, and scanned images," keystrokes is recited.); and

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Fletcher-Haynes within the Davis system with the motivation of donor process optimization (Fletcher-Haynes: pg. 2, par. [0015]).

9. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis as applied to claim 37 above, and further in view of Maxwell (US 2004/0148229; hereinafter Maxwell).

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(A) As per claim 38, Davis discloses the method of claim 37, wherein the digital device is adapted to utilize transplant donor management software via wireless or wireline network connection (Davis: pg. 2, par. [0018] and [0023]; Fig. 2).

Davis, however, fails to expressly disclose the method of claim 37, wherein the digital device is adapted to download software additions, updates and deletions to the remote computer. Nevertheless, these features are old and well known in the art, as evidenced by Maxwell.

In particular, Maxwell discloses the method of claim 37, wherein the digital device is adapted to download at least one of software additions, software updates, and software deletions to the remote computer via wireless or wireline network connection (Maxwell: pg. 15, par. [0200]).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Maxwell within the Davis system with the motivation of providing a means of readily modifying/updating software (Maxwell: pg. 1, par. 0011)).

The Examiner has noted insofar as claim 38 recites "at least one of...software additions...software updates, and...software deletions," software additions are recited.

(B) Claim 39 substantially repeats the same limitations of claim 38, and is therefore rejected for the same reasons given for that claim.

10. Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the collective teaching of Davis and Fletcher-Haynes, as applied to claim 40 above, and further in view of Mathiassen et al. (US 2004/0123113; hereinafter Mathiassen).

(A) As per claim 41, Davis and Fletcher-Haynes collectively disclose the method of claim 40, wherein:

- (i) the remote database is accessible via a secure network (Davis: pg. 2, par. [0016]; Examiner considers "firewall" to read on a "secure network.");
- (ii) the pre-registered sign-on data is assigned by a network administrator (Fletcher-Haynes: pg. 13, par. [0093]); and
- (iii) the procurement organization representative must input a unique identifier prior to accessing the remote database having the plurality of transplant donor records specific to transplant donors (Davis: pg. 4, par. [0034]).

The collective teachings of Davis and Fletcher-Haynes, however, fail to expressly disclose the method of claim 40, wherein:

- (iv) the pre-registered sign-on data includes embedded data within the digital device; and

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- (v) the digital device is pre-registered by the network administrator.

Nevertheless, these features are old and well known in the art, as evidenced by Mathiassen.

In particular, Mathiassen discloses the method of claim 40, wherein:

- (iv) the pre-registered sign-on data includes embedded data within the digital device (Mathiassen: pg. 5, par. [0060] and [0061]; abstract);
- (v) the digital device is pre-registered by the network administrator (Mathiassen: pg. 5, par. [0060] and [0061]; abstract); and

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Mathiassen within the collective teachings of Davis and Fletcher-Haynes with the motivation of providing improved security (Mathiassen: pg. 2, par. [0019])

(B) As per claim 42, Davis discloses the method of claim 41, wherein the unique identifier includes at least one of a password (Davis: pg. 4, par. [0034]).

The Examiner has noted insofar as claim 42 recites "at least one of a first name, a last name, a password, and a procurement organization representative identifier," a password is recited.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches a personal digital assistant (PDA) enabled phone (US 2002/0107045) and an information processing method for disease stratification and assessment of disease progressing (US 2004/0243362).

The cited but not applied prior art also includes non-patent literature articles by Business Editors ("Cabletron Systems Selected for US Government's Nation-Wide Organ Transplant Network" Apr. 23, 1998. Business Wire. pg. 1.) and Michael Gardner ("Transplant Backers Push For Organ Donor Database" Feb. 4, 2003. The San Diego Union - Tribune. pg. A.4.).


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT ~~MT~~ 8-9-05

  
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